

Mr. Japiske  
19576

**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

**FILE:**

B-204532

**DATE:** September 22, 1981

**MATTER OF:**

Air Services Company

**DIGEST:**

Protest against rejection of low bid is denied summarily where protester admits that its bid was rejected for failure to acknowledge receipt of amendment containing wage determination. Such omission is not a minor informality or irregularity which can be waived.

Air Services Company protests rejection of its bid under solicitation No. N62474-81-B-7335 issued by the Marine Corps Air Station at El Toro, California. The protester admits in its protest that its bid was rejected because it failed to acknowledge receipt of an amendment including a wage determination. Nevertheless, the protester says its bid should have been considered because the wage determination had no impact on its bid price, which was substantially lower than the price offered by the awardee.

The protest is denied summarily. It is well settled that failure to acknowledge an amendment in an advertised procurement renders a bid nonresponsive and that where the substance of the amendment concerns a wage rate determination, failure to acknowledge the amendment cannot be waived as a minor informality or irregularity. This is because absent acknowledgement, the bidder legally could not be required by the Government to pay the wages prescribed in the amendment, even though, as here, it may already be paying the same or a higher rate under a union contract. McHenry Cooke, B-196138, January 28, 1980, 80-1 CPD 74.

Air Services states that it did not acknowledge the amendment because the amendment indicated that offerors were not required to sign and return it. In this regard, Standard Form 30 provides boxes which the contracting officer may use to indicate whether a signed copy of

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the amendment is required. Apparently, Air Services overlooked paragraph 9 of that same form which specifically warns bidders of their responsibility to acknowledge receipt of the amendment if a signed copy is not forwarded to the contracting activity.

Since the protester's initial submission affirmatively demonstrates that the protest is without legal merit, we have reached our decision without requesting an agency report. Wilderness Research Institute, Inc., B-203326, June 19, 1981, 81-1 CPD 512.

The protest is denied.

A handwritten signature in dark ink, appearing to read "Milton J. Arosan". The signature is fluid and cursive, with the first name "Milton" being the most prominent.

Acting Comptroller General  
of the United States